

CHAPTER NO. 1059

HOUSE BILL NO. 525

By Representatives Kernell, McMillan, Fitzhugh, Scroggs, Brenda Turner, Chumney, Patton

Substituted for: Senate Bill No. 323

By Senator Fowler

AN ACT to amend Tennessee Code Annotated, Title 36, relative to domestic relations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-4-101 is amended by adding the following new subsections after subsection (10) and renumbering subsequent subsections accordingly:

(11) The husband or wife is guilty of such cruel and inhuman treatment or conduct towards the spouse as renders cohabitation unsafe and improper which may also be referred to in pleadings as inappropriate marital conduct;

(12) Husband or wife has offered such indignities to the spouse's person as to render the spouse's position intolerable, and thereby forced the spouse to withdraw;

(13) Husband or wife has abandoned the spouse or turned the spouse out of doors for no just cause, and has refused or neglected to provide for the spouse while having the ability to so provide;

SECTION 2. Tennessee Code Annotated, Section 36-4-102 is amended by deleting the section in its entirety and substituting instead the following:

36-4-102. Legal Separation.

(a) A party who alleges grounds for divorce from the bonds of matrimony may, as an alternative to filing a complaint for divorce, file a complaint for legal separation. Such complaint shall set forth the grounds for legal separation in substantially the language of § 36-4-101 and pray only for legal separation or for such other and further relief to which complainant may think to be entitled. The other party may deny the existence of grounds for divorce but, unless the other party specifically objects to the granting of an order of legal separation, the court shall declare the parties to be legally separated.

(b) If the other party specifically objects to legal separation, the court may, after a hearing, grant an order of legal separation notwithstanding such objections if grounds are established pursuant to § 36-4-101. The court also has the power to grant absolute divorces to either party where there has been an order of legal separation for more than two (2) years upon a petition being filed by either party which sets forth the original order for legal separation and that the parties have not become reconciled. The court granting the divorce shall make a final and complete adjudication of the support and property rights of the parties. However, nothing in this subsection shall preclude the court from granting an absolute divorce before the two (2) year period has expired.

(c) Legal separation shall not affect the bonds of matrimony but shall permit the parties to cease matrimonial cohabitation. The court may provide for matters such as child custody, visitation, support and property issues during legal separation upon motion by either party or by agreement of the parties.

(d) Notwithstanding this section, a party who can establish grounds for divorce from the bonds of matrimony pursuant to § 36-4-101 shall be entitled to an absolute divorce pursuant to the provisions of Tennessee Code Annotated, Title 36, Chapter 4.

SECTION 3. Tennessee Code Annotated, Section 36-4-116(a), is amended by deleting the language "divorce from bed and board" and substituting instead the language "legal separation".

SECTION 4. Tennessee Code Annotated, Section 36-4-103(a)(2), is amended by deleting the words and numbers "one hundred twenty (120) days" in the sixth line of the subdivision and by substituting instead "one hundred eighty (180) days."

SECTION 5. Tennessee Code Annotated, Section 36-4-129(a), is amended by deleting the words "from bed and board," from the first line of the section and substituting instead "for legal separation." Subsection (b) of the Section is amended by deleting the language "upon such stipulation or upon proof" and substituting instead "upon stipulation to or proof of any ground for divorce pursuant to § 36-4-101".

SECTION 6. Tennessee Code Annotated, Title 36, Chapter 4, is amended by adding the following new section:

(a) In an action for dissolution of marriage involving minor children, upon its own motion or upon the motion of either party, the court may appoint a guardian ad litem for any minor child of the marriage.

(b) The reasonable fees or costs of the guardian ad litem shall be borne by the parties and may be assessed by the court as it deems equitable. Such fees or costs may be waived upon motion for an indigent person.

SECTION 7. Tennessee Code Annotated, Section 36-6-101(e)(3), is amended by adding the following new sentence at the end of the subdivision:

Refusal to attend the educational session may be punished by contempt.

SECTION 8. Tennessee Code Annotated, Section 36-4-106, is amended by deleting the heading for such section and substituting instead the heading "Contents of petition for divorce and legal separation".

SECTION 9. Tennessee Code Annotated, Section 36-4-106(a), is amended by deleting from the first sentence the language "The bill or petition shall set forth" and substituting instead the language "The complaint for divorce shall set forth".

SECTION 10. Tennessee Code Annotated, Section 36-4-106, is further amended by designating the language of subsection (a) as subdivision (a)(1) and by adding the following new subdivision:

(a)(2) The complaint for legal separation shall set forth the grounds for legal separation in substantially the language of § 36-4-101, and pray for such

further relief to which the complainant is entitled. In all cases where an answer is filed, the court shall, on motion of the defendant, require the complainant to file a bill of particulars, stating the facts relied on as a ground for legal separation, with reasonable certainty as to time and place.

SECTION 11. Tennessee Code Annotated, Section 36-4-120, is amended by deleting the words "any of those specified in § 36-4-102" and substituting instead "that specified in § 36-4-101(11)."

SECTION 12. This act shall take effect on January 1, 1999, the public welfare requiring it.

PASSED: May 1, 1998




JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 19th day of May 1998



DON SUNDQUIST, GOVERNOR